

Introduced by Senator Florez

March 4, 2004

An act to add Section 6713 to the Labor Code, relating to safety in employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1901, as introduced, Florez. Safety in employment: grape tasting.

Existing law, the California Occupational Safety and Health Act of 1973, requires employers to provide safe and healthful working conditions for all employees, and provides penalties for employers who fail to comply with the act's provisions.

This bill would prohibit employers from requiring harvesting employees to taste or consume unwashed grapes in the field or prior to testing, except in limited circumstances and under certain conditions. The bill would impose civil penalties, as specified, for employers who violate the bill's provisions, in addition to any other penalty provided by law. Because certain violations of the bill's prohibitions would constitute criminal offenses, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) In recent years, some agricultural employers have required their harvesting employees to taste table grapes as they harvest to determine whether specific bunches are sweet enough for harvesting. Almost all other employers in the table grape industry reject this practice and instead utilize a refractometer for the purpose of determining the suitability of table grapes for harvest.

(b) The forced tasting of table grapes prior to harvest violates standards of common decency as well as the standard safety training given to fieldworkers and the general public to wash produce before eating it. There is evidence that forced tasting practices have caused some workers to get sick or develop other health problems, and thus clearly violate existing health and safety protections.

(c) Because a fieldworker's hands quickly become laden with pesticide and microbe contaminated dust during harvest and other hand labor work, it is therefore in the public interest to establish clear standards to safeguard the health of employees in the table grape industry who may be adversely affected by forced grape testing practices.

(d) This legislation shall be known as the "Table Grape Worker Safety Act of 2004."

SEC. 2. Section 6713 is added to the Labor Code, to read:

6713. (a) Except as provided in subdivision (b), it is unlawful for an employer to require an employee to taste or consume unwashed grapes in the field or prior to processing.

(b) When an employer can demonstrate that no method for determining whether table grapes are ready or suitable for harvesting exists other than in-the-field or pre-processing tasting by humans, tasting is permitted if the employer complies with all of the following:

(1) The tasting is performed only by a supervisory employee who is paid exclusively on an hourly or salaried basis and has received training in safe tasting practices within the previous calendar year.

(2) Sufficient potable water and a suitable cleanser are carried by all supervisory employees who perform tasting for washing the commodity and for hand washing prior to tasting.

(3) All employees are instructed and required to wash their hands and grapes before tasting or consumption.

(4) The employer's injury prevention plan addresses the circumstances and conditions under which tasting or consuming may be required or allowed.

(c) Notwithstanding subdivision (b), under no circumstances shall any employee be required to taste or consume table grapes in the field or prior to processing if that commodity has been treated with, or is under a restricted entry interval for any pesticide, herbicide, or ripening agent during the previous 30 days.

(d) An employer who violates this section is subject to a minimum civil penalty in the amount of five hundred dollars (\$500) per employee, per violation, in an initial citation and one thousand dollars (\$1,000) per employee, per violation, in any subsequent citation. The civil penalties provided for in this section are in addition to any other penalty provided by law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.